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SUBJECT: KAZAKHSTAN - DEMARCHE DELIVERED ON SPECIAL 301

REF: STATE 43163

¶1. (SBU) Summary: Per reftel, Poloff met on April 25 with officials from the Ministry of Trade and Industry to inform them that Kazakhstan will not be listed on the 2008 Special 301 Watchlist. Ministry officials were very pleased to hear this news. They sought clarification of several of the demarche points, specifically concerning the authority for customs officials to initiate criminal cases, and the destruction of equipment used in the production of pirated materials. The Ministry requested that the content of the demarche be given to them in writing, so that they can respond in detail. End Summary.

¶2. (SBU) Poloff met on April 25 with Damegul Kabieva and Saadat Assanseitova, respectively Director and Deputy Director of the Department of Trade Policy Development and WTO Accession of the Ministry of Industry and Trade, as well as with Ministry IPR expert Marina Sirotina. They thanked Poloff for conveying the good news that Kazakhstan will not be listed on the 2008 Special 301 Watchlist, and said that Minister Aitzhanova will be very glad to hear it as well. They noted that this is evidence of the hard work of their Ministry and the many positive steps that they have made in terms of adapting Kazakhstani IPR legislation to WTO norms.

¶3. (SBU) Kabieva had specific questions with respect to two of the points in the demarche. Regarding the request for adoption in the Customs Code of ex officio authority for customs officials to seize illegal material and to commence their own investigations and criminal cases, she stated currently only the IPR holder can initiate court proceedings. They expect that in the revised Customs Code, which is still in draft, customs officials will be able to initiate administrative proceedings against IPR infringers, but not criminal proceedings. Regarding adoption of provisions in the Criminal Code clarifying the government's authority to confiscate and destroy manufacturing equipment used to produce confiscated materials, she stated that the issue of destruction of equipment is still being negotiated with the IPR committee of the Ministry of Justice. In addition, the officials explained that the Customs Committee (which is under the Ministry of Finance) will open a new department for IPR protection, which will train customs officials on IPR protection.

¶4. (SBU) Kabieva requested that the demarche points be sent in written form to their Ministry so that they can review them and provide written answers. (Note: Per the demarche instructions, Poloff only delivered the points orally. End Note.) She also stated that the Kazakhstani side looks forward to meeting with U.S. officials during the fourth TIFA meeting in Tajikistan in June.

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